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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,100	07/03/2001	Takeshi Ishida	826.1734	1690

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EXAMINER	
CASIANO, ANGEL L	
ART UNIT	**PAPER NUMBER**
2182	

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/897,100	ISHIDA ET AL.	
	Examiner	Art Unit	
	Angel L Casiano	2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 July 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 July 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The present Office action is in response to application filed 03 July 2001.

Claims 1-9 are pending. All claims have been examined.

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Lumelsky et al. [US 6,516,350 B1].

Regarding claim 1, Lumelsky et al. teaches a system (see Abstract) including a program causing an information-processing device to execute a *service managing method* ("management of distributed resources, Abstract) accommodating a *plurality of service servers* (see "plurality of resources", Abstract; col. 2, line 4; col. 5, lines 30-32; col. 12, lines 26-28 "service resource") each rendering a service via a *network* (see Figures 2-3) in response to a *service request* (see col. 5, lines 33-36) from a *client* (see col. 5, lines 66-67). The reference teaches *distributing* the service request to the plurality of service servers (see col. 5, line 31). The prior art method teaches *managing* the plurality of service servers by dividing the service servers into a plurality of groups of service servers depending on *quality levels* (see "performance" and "parameters", col. 7, lines 1-10) of rendered services (see col. 5, line 65 to col. 6, line 5). In the reference, an intermediate service resource group shifts among the plurality of groups and render a service as a service quality of a group to which the shift is made (see col. 6, lines 1-5; "dynamic insertion or resources", col. 7, line 9). The reference also teaches *reducing a load* on a service server within any of the plurality of groups by using the resources of the service server with the lightest load (see "underused resources of servers 113 and 114", col. 9, lines 8-9). The reference teaches using this management method when the load on the *service server* within any of the plurality of groups increases ("returning resources when rate of requests decreases", col. 9, lines 13-14), and a *quality level* ("quality of service must be configurable, predictable, and maintainable", col. 3, lines 47-55) to be rendered *cannot be maintained.*

As for claim 2, the reference teaches a storage unit having information to which group (of service) the servers belong (see Figure 6, "400"; col. 9, lines 40-64).

As for claim 3, the reference teaches a service quality as being a response time (see col. 9, lines 11-12).

As for claim 4, Lumelsky et al. teaches recording and managing a service log (see col. 10, lines 19-26, "user profiles"). The reference also generates a schedule (see "achieve properties over patterns of usage", col. 7, lines 3-5). Lumelsky et al. changes the way of distributing service servers accordingly (see col. 7, lines 3-5; "enforce properties over patterns of usage").

As per claim 5, the reference teaches measuring the load for a server required to process a service request (see col. 9, lines 4-7) and shifting a server based on the load determination (see col. 9, lines 7-14).

Regarding claim 6, Lumelsky et al. teaches a **system** (see Abstract) including a program causing an information-processing device to execute a *service managing* ***method*** ("management of distributed resources, Abstract) accommodating a *plurality of service servers* (see "plurality of resources", Abstract; col. 2, line 4; col. 5, lines 30-32; col. 12, lines 26-28 "service resource") each rendering a service via a *network* (see Figures 2-3) in response to a *service request* (see col. 5, lines 33-36) from a *client* (see col. 5, lines 66-67). The reference teaches *distributing* the

service request to the plurality of service servers (see col. 5, line 31). Therefore, the present claim is rejected under the same basis as claim 1.

Regarding claim 7, Lumelsky et al. teaches a **system** (see Abstract) including a ***program*** causing an information-processing device to execute a *service managing method* ("management of distributed resources, Abstract) accommodating a *plurality of service servers* (see "plurality of resources", Abstract; col. 2, line 4; col. 5, lines 30-32; col. 12, lines 26-28 "service resource") each rendering a service via a *network* (see Figures 2-3) in response to a *service request* (see col. 5, lines 33-36) from a *client* (see col. 5, lines 66-67). The reference teaches *distributing* the service request to the plurality of service servers (see col. 5, line 31). Therefore, the present claim is rejected under the same basis as claim 1.

Regarding claim 8, Lumelsky et al. teaches a **system** (see Abstract) including a program causing an information-processing device to execute a *service managing* method ("management of distributed resources, Abstract) accommodating a *plurality of service servers* (see "plurality of resources", Abstract; col. 2, line 4; col. 5, lines 30-32; col. 12, lines 26-28 "service resource") each rendering a service via a *network* (see Figures 2-3) in response to a *service request* (see col. 5, lines 33-36) from a *client* (see col. 5, lines 66-67). The reference teaches *distributing* the service request to the plurality of service servers (see col. 5, line 31). Therefore, the prior art also teaches the storage medium containing the program. The present claim is rejected under the same basis as claim 1.

Regarding claim 9, Lumelsky et al. teaches a **system** (see Abstract) including a program causing an information-processing device to execute a *service managing* method ("management of distributed resources, Abstract) accommodating a *plurality of service servers* (see "plurality of resources", Abstract; col. 2, line 4; col. 5, lines 30-32; col. 12, lines 26-28 "service resource") each rendering a service via a *network* (see Figures 2-3) in response to a *service request* (see col. 5, lines 33-36) from a *client* (see col. 5, lines 66-67). The reference teaches *distributing* the service request to the plurality of service servers (see col. 5, line 31). Lumelsky et al. also teaches a **service managing apparatus** for implementing the system of claim 1 (see Figures 4-6). Therefore, the present claim is rejected under the same basis as claim 1.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Baugher et al. [US 5,581,703 A] teaches method and apparatus for reserving system resources to assure quality of service.
- Turek et al. [US 6,021,439 A] teaches a quality-of-service monitoring system for use in a computer network.
- Elleson et al. [US 6,101,541 A] teaches a central administrative directory server for managing the service quality of the network environment.
- Lumelsky et al. [US 6,463,454 B1] teaches system and method for integrated load distribution and resource management on Internet environment.
- Farhat et al. [US 6,510,463 B1] teaches service quality monitoring process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angel L Casiano whose telephone number is 571-272-4142. The examiner can normally be reached on 9:00-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alc
16 February 2005

JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
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